

REMARKS

Claims 1-17 are pending in the present application. Claims 3-5, 7 and 12 are withdrawn from consideration as drawn to nonelected species. Claim 6 was objected to under 37 CFR 1.75(c) as being of improper dependent form. Claims 1, 6, 8-11 and 13-17 were rejected under 35 U.S.C. §102(b) as being anticipated by Knebel et al., U.S. Patent Application Publication No. 2002/0020800 A1. Claims 2 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Knebel et al. in view of Batchelder et al., U.S. Patent No. 5,689,333.

Claim 1 has been amended. Claim 6 has been canceled. Reconsideration of the application is respectfully requested.

Amendments to the claims

Independent claim 1 has now been amended to remove the recitations "and/or through" in lines 3-4 and 11. Claim 1 now recites that both of the illumination light beam and the manipulating light beam can be guided "over" the sample using the beam deflection device. Support for the amendment may be found, for example, at the paragraph beginning at line 13 on page 4 of the present specification. It is respectfully submitted that no new matter has been added.

Rejections under 35 U.S.C. §102(b), §103(a)

Claims 1, 6, 8-11 and 13-17 were rejected under 35 U.S.C. §102(b) as being anticipated by Knebel et al., U.S. Patent Application Publication No. 2002/0020800 A1. Claims 2 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Knebel et al. in view of Batchelder et al., U.S. Patent No. 5,689,333.

Independent claim 1, as amended, recites an illuminating light beam and a manipulating light beam that both "can be guided over the sample using [the] beam deflection device." It is respectfully submitted that neither of Knebel or Batchelder teach or suggest these features of claim 1. In contrast, Knebel describes separate beam deflection devices for the illuminating and manipulation light beams. Section [0027] of Knebel specifies that in the

case where one of the scanning mirrors is arranged in the common beam path, the scanning mirror "is transparent for one of the two beam paths, whereas it acts as a mirror for the other beam path." See Knebel, page 2, section [0027], lines 10-12. Because it is transparent for one of the two beam paths, the scanning mirror arranged in the common beam path cannot guide both the illuminating and manipulation light beams over the sample, as recited in claim 1. This is consistent with the rest of the Knebel reference, which requires a separate beam deflection device for each of the illuminating and manipulation light beams. Nor does Batchelder teach the above-recited features of claim 1.

Because both of Knebel and Batchelder are missing at least the above-recited features of independent claim 1, these references cannot anticipate claim 1 or its dependent claims, nor can a combination of these references, to the extent proper, render any of the claims obvious.

Withdrawal of the respective rejections of claims 1, 6, 8-11 and 13-17 under 35 U.S.C. §102(b) based on Knebel et al., and of claims 2 and 8 under 35 U.S.C. §103(a) based on Knebel et al. in view of Batchelder et al., is respectfully requested.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 

Erik R. Swanson
Reg. No. 40,833

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
(212) 736-1940